IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 31679 of 2006(U)

PETITIONER:

K. JAYAKUMAR, JUNIOR SUPERINTENDENT,
DEVASWAM ASST.COMMISSIONER'S OFFICE,
THRIPUNITHURA.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:

1. THE COCHIN DEVASWAM BOARD,
DEVASWOM BUILDING, THRISSUR-1,
REPRESENTED BY ITS SECRETARY.

2. V.V. SALIL KUMAR, ASSISTANT
COMMISSIONER, DEVASWOM ASSISTANT COMMISSIONER'S
OFFICE, THRIPPUNITHURA.

3. P. MURALEEDHARAN,
ASSISTANT COMMISSIONER, DEVASWOM ASSISTANT
COMMISSIONER'S OFFICE, THRISSUR.

BY ADV. SRI.V.TEKCHAND
SRI.M.RAMESH CHANDER, SC, CDB
SRI.K.GOPALAKRISHNA KURUP,SC,COCHIN D.B

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.31679/06

APPENDIX

EXT.P1. COPY OF THE ORDER DT. 6.10.05 ISSUED BY THE 1ST RESPONDENT.

EXT.P2. COPY OF THE APPLICATION DT. 15.5.06.

EXT.P3. COPY OF THE LETTER DT. 22.5.06.

EXT.P4. COPY OF THE ORDER DT. 31.5.06.

EXT.P5. COPY OF THE RELEVANT PAGE OF THE SENIORITY LIST.

EXT.P6. COPY OF THE REPRESENTATION DT. 21.7.06.

EXT.P7. COPY OF THE LETTER DT. 26.8.06.

EXT.P8. COPY OF THE APPEAL DT. 3.9.06.

EXT.P9. COPY OF THE ORDER DT. 11.9.06.

EXT.P10. COPY OF THE JUDGMENT IN OP 14645/06 DT. 2.6.00.

EXT.P11. COPY OF THE REPRESENTATION DT. 7.10.06 FILED BY THE PETITIONER.

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 31679 OF 2006

Dated this the 14th day of March, 2007

J U D G M E N T

Petitioner while working as junior Superintendent in the Cochin Devaswom Board (for short "the Board") had applied for leave without allowance for 5 years to take up another suitable employment in India. By order dated October 6, 2005, a copy of which is on record as Ext.P1, the Board had granted leave to the petitioner as requested by him with effect from October 1, 2005. According to the petitioner, he "found it difficult to manage his livelihood with his present private work" and therefore decided to rejoin duty in the Board. He submitted Ext.P2 application/representation before the Board on May 15, 2006 with a request to allow him to rejoin duty "at the earliest". Petitioner also submitted Ext.P3 before the Board on May 22, 2006 requesting to promote him to the Grade of Devaswom Assistant Commissioner or any equivalent post with effect from June 1, 2006. The grievance of the petitioner is that no action has so far been taken by the Board on the above requests made

by him. By Ext.P7 communication dated August 26, 2006, the Secretary of the Board informed the petitioner that his request to allow him to rejoin duty with effect from June 1, 2006 had been rejected since his request was made only 12 days prior to the date on which he proposed to rejoin. It was also pointed out that the application submitted by the petitioner was not in terms of the relevant Rules.

2. Learned counsel for the petitioner has invited my attention to Exts. P4 and P9 proceedings of the Board in which reference has been made to the requests made by the petitioner for permission to rejoin duty and also for promotion.

3. I do not propose to deal with the above and other contentions raised by the petitioner with regard to the propriety, or legality of the decision taken by the Board at this stage in view of the order I propose to pass in this case.

4. Learned Standing Counsel for the Board submits that the Board is prepared to allow the petitioner to rejoin duty for the time being in the same post from which he had entered on leave. It is further submitted by him that appropriate decision on the

request made by the petitioner to promote him to the next higher post will be considered by the Board in accordance with the Rules and Regulations. Learned counsel for the petitioner submits that he is prepared to rejoin duty immediately. He further submits that the Board may be directed to take an appropriate decision on the claim made by him for promotion expeditiously.

In the above facts and circumstances, the writ petition is disposed of with a direction to respondent No.1 to allow the petitioner to rejoin duty as Junior Superintendent or in other equivalent post for the time being. Appropriate orders in this regard allowing the petitioner to rejoin duty shall be issued by the Board within three weeks from the date of receipt of a copy of this judgment. It will be open to the petitioner to submit a representation before the Board highlighting his grievances and putting forth his claim for promotion to the higher post, within four weeks from the date of rejoining duty. The Board shall take appropriate decision on the representation to be submitted by the petitioner, as expeditiously as possible, at any rate within four months from the date of receipt thereof. Needless to mention

that the petitioner, respondents 2 and 3 and all others, who are likely to be affected by any decision that may be taken by the Board, shall be afforded sufficient opportunity to be heard before taking any final decision in the matter. It is made clear that I have not considered the merit of the rival contentions raised by the parties before me.

A.K. BASHEER, JUDGE

vps

KURIAN JOSEPH, JUDGE

OP NO.

JUDGMENT

21st DECEMBER, 2006